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# State v. Thompson Appellant's Brief Dckt. 43714

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IN THE SUPREME COURT OF THE STATE OF IDAHO

|                       |   |                                   |
|-----------------------|---|-----------------------------------|
| STATE OF IDAHO,       | ) |                                   |
|                       | ) | NO. 43714                         |
| Plaintiff-Respondent, | ) |                                   |
|                       | ) | KOOTENAI COUNTY NO. CR 2013-20004 |
| v.                    | ) |                                   |
|                       | ) |                                   |
| CHRISTOPHER WAYNE     | ) | APPELLANT'S BRIEF                 |
| THOMPSON,             | ) |                                   |
|                       | ) |                                   |
| Defendant-Appellant.  | ) |                                   |
| _____                 | ) |                                   |

STATEMENT OF THE CASE

Nature of the Case

Pursuant to a plea agreement, forty-seven-year-old Christopher Wayne Thompson pleaded guilty to second-degree murder. The district court imposed a unified sentence of fifty-two-years, with sixteen years fixed. Mr. Thompson filed an Idaho Criminal Rule 35 ("Rule 35") motion, which the district court denied. On appeal, Mr. Thompson asserts the district court abused its discretion when it denied his Rule 35 motion.

Statement of the Facts & Course of Proceedings

Officers of the Post Falls Police Department responded to a residence in Post Falls after getting a report that Mr. Thompson had been in a fight with his girlfriend,

Deborah Willette, and that he may have killed her. (See Sealed Exs., p.57.) When nobody answered at Ms. Willette's residence, the officers forced entry and saw an apparently lifeless body of a female, Ms. Willette, wrapped in a carpet in the living room. (See Sealed Exs., p.57.) Her throat had been slit with a sharp instrument, and her bloodied arms and hands were folded across her chest and bound at the wrist. (Sealed Exs., p.57.) The officers noticed signs of a struggle. (Sealed Exs., p.57.) Paramedics confirmed Ms. Willette was deceased. (Sealed Exs., p.57.)

Officers subsequently arrested Mr. Thompson, who was brought to the Post Falls police station for questioning. (Sealed Exs., p.57.) Mr. Thompson had what appeared to be dried blood on his shirt and pants, and also had several fresh lacerations on his hands. (Sealed Exs., pp.57-58.) He stated his relationship with Ms. Willette had earlier turned violent when he released his "cauldrons" or "children" or "spirits" from the crystal hanging around his neck. (See Sealed Exs., p.58.) Mr. Thompson stated that, on the day of the incident, he had an argument with Ms. Willette that turned into a physical fight, they wrestled over a knife he had obtained from the kitchen before the dispute became physical, and he pressed the blade into her neck after they both fell to the floor. (See Sealed Exs., p.58; see *generally* Def. Exs. A & B, filed Feb. 10, 2015 (video recording of Mr. Thompson's police interrogation and transcript thereof).) Mr. Thompson was taken to the Kootenai County Public Safety Building and booked for murder. (See Sealed Exs., p.58.)

The State charged Mr. Thompson by Information with one count of first-degree murder, felony, Idaho Code §§ 18-4001, 18-4002 and 18-4003, and with a use of a

deadly weapon in the commission of a felony sentencing enhancement pursuant to I.C. § 19-2520. (R., pp.153-54.) Mr. Thompson entered a not guilty plea. (R., p.159.)

Pursuant to a plea agreement, Mr. Thompson later agreed to plead guilty to one count of second-degree murder, felony, I.C. §§ 18-4001, 18-4002 and 18-4003. (R., pp.163-66.) The State would recommended a unified sentence of life imprisonment, with twenty-two years fixed, and Mr. Thompson would be free to argue for a lesser sentence. (R., pp.163-64.) Mr. Thompson agreed to “[w]aive appeal as of right as to conviction.” (R., p.164.)

At the sentencing hearing, the State recommended a unified sentence of life imprisonment, with twenty-two years fixed. (Tr., Mar. 23, 2015, p.60, Ls.18-20.) Mr. Thompson recommended a unified sentence of ten years, with seven years fixed. (See Tr., Mar. 23, 2015, p.85, Ls.20-23.) The district court imposed a unified sentence of fifty-two years, with sixteen years fixed. (R., pp.255-57.)

Mr. Thompson filed a Motion for Reconsideration of Sentence Pursuant to I.C.R. 35. (R., pp.258-59.) The Rule 35 motion was “made as a plea for leniency.” (R., p.258.) At the Rule 35 motion hearing, Mr. Thompson additionally asserted the sentence was illegal. (See Tr., Oct. 2, 2015, p.17, L.24 – p.18, L.23.)

The district court subsequently issued a Memorandum Decision and Order Denying Defendant’s Rule 35 Motion. (R., pp.268-276.) The district court determined Mr. Thompson’s sentence was not illegal as contemplated by Rule 35.<sup>1</sup> (R., pp.270-74.) The district court also determined Mr. Thompson’s sentence was not so severe as to warrant a grant of leniency. (R., pp.274-75.)

Mr. Thompson filed a Notice of Appeal timely from the district court's Memorandum Decision and Order Denying Defendant's Rule 35 Motion. (R., pp.277-280.)

### ISSUE

Did the district court abuse its discretion when it denied Mr. Thompson's Idaho Criminal Rule 35 Motion for a Reduction of Sentence?

### ARGUMENT

#### The District Court Abused Its Discretion When It Denied Mr. Thompson's Idaho Criminal Rule 35 Motion For A Reduction Of Sentence

Mr. Thompson asserts that the district court abused its discretion when it denied his Idaho Criminal Rule 35 motion for a reduction of sentence. "A motion to alter an otherwise lawful sentence under Rule 35 is addressed to the sound discretion of the sentencing court, and essentially is a plea for leniency which may be granted if the sentence originally imposed was unduly severe." *State v. Trent*, 125 Idaho 251, 253 (Ct. App. 1994) (citation omitted). "The denial of a motion for modification of a sentence will not be disturbed absent a showing that the court abused its discretion." *Id.* "The criteria for examining rulings denying the requested leniency are the same as those applied in determining whether the original sentence was reasonable." *Id.* "If the sentence was not excessive when pronounced, the defendant must later show that it is excessive in view of new or additional information presented with the motion for reduction." *Id.*

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<sup>1</sup> On appeal, Mr. Thompson does not challenge the district court's ruling on the illegality of the sentence.

Mr. Thompson asserts his sentence is excessive in view of the new and additional information presented with the Rule 35 motion. Specifically, Mr. Thompson presented new and additional information on his mental health issues and the treatment he was undergoing while incarcerated. In advance of sentencing, Mr. Thompson submitted a Forensic Mental Health Evaluation prepared by Craig W. Beaver, Ph.D., a diplomate in clinical neuropsychology. (See *generally* Sealed Exs., pp.29-54.) Dr. Beaver diagnosed Mr. Thompson with “Schizoaffective Disorder, Bipolar Type . . . Alcohol Use Disorder, Severe . . . Cannabis Use Disorder, Mild . . . Amphetamine-type Substance Use Disorder, Mild . . . [and] Unspecified Neurocognitive Disorder.” (Sealed Exs., p.49.)

In the evaluation, Dr. Beaver stated Mr. Thompson had a history of severe mental illness and was severely impaired at the time of the incident. (See Sealed Exs., p.50.) Dr. Beaver observed it appeared Mr. Thompson was increasingly psychotic at the time of the incident because he had stopped taking his psychotropic medications. (See Sealed Exs., p.50.) Dr. Beaver further noted “Mr. Thompson has improved remarkably now that he has restabilized on psychotropic medication. Dr. Carlberg<sup>2</sup> indicates he can be stabilized on psychotropic medications, although he may have some mild residual difficulties.” (Sealed Exs., p.51.)

At the Rule 35 motion hearing, Mr. Thompson presented new and additional information on his mental health issues and the treatment he was undergoing while incarcerated. Mr. Thompson testified he had been taking classes for mood

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<sup>2</sup> Dr. Nicole Carlberg, a psychiatrist, had previously treated Mr. Thompson and was providing psychiatric consultation for Mr. Thompson during his incarceration at the Kootenai County Jail. (See Sealed Exs., p.29.)

management and living with schizophrenia after being incarcerated in prison. (Tr., Oct. 2, 2015, p.8, Ls.14-19, p.9, Ls.10-12.) He told the district court he was taking the mood management class every day, where he learned “how to deal with different moods and how to deal with the feelings you have sometimes or such as that.” (Tr., Oct. 2, 2015, p.8, L.20 – p.9, L.1.) He had already graduated from portions of both classes. (Tr., Oct. 2, 2015, p.9, Ls.2-15.)

Mr. Thompson also testified he was the medications Depakote, Zyprexa, Celexa, and Cogentin. (Tr., Oct. 2, 2015, p.9, L.16 – p.10, L.3.) Those medications were primarily for his mental health diagnosis, namely his schizophrenia and depression. (Tr., Oct. 2, 2015, p.10, Ls.5-11.) Mr. Thompson testified he took his medications as required “morning and night, without fail.” (Tr., Oct. 2, 2015, p.10, Ls.12-14.) He further had the opportunity to go into individual counseling at the prison, and could talk with a clinician about medications or any issues he was having. (Tr., Oct. 2, 2015, p.10, Ls.15-25.)

When asked how he had been feeling since he had been getting the above treatment and medications, Mr. Thompson replied: “It’s been a big relief. I guess I didn’t realize how terrible I was when I wasn’t taking my meds. It’s a complete turnaround.” (Tr., Oct. 2, 2015, p.11, Ls.9-17.) He planned to be compliant in the future with the suggestions or prescriptions given to him by his doctors and clinicians. (Tr., Oct. 2, 2015, p.11, Ls.18-22.) Mr. Thompson also testified he had not had any disciplinary problems while at the prison. (Tr., Oct. 2, 2015, p.11, Ls.4-6.)

In view of the above new and additional information on his mental health issues and the treatment he was undergoing while incarcerated, Mr. Thompson asserts his

sentence is excessive. Thus, Mr. Thompson submits that the district court abused its discretion when it denied his Rule 35 motion for a reduction of sentence.

### CONCLUSION

For the above reasons, Mr. Thompson respectfully requests that this Court reduce his sentence as it deems appropriate.

DATED this 5<sup>th</sup> day of July, 2016.

\_\_\_\_\_/s/\_\_\_\_\_  
BEN P. MCGREEVY  
Deputy State Appellate Public Defender



CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5<sup>th</sup> day of July, 2016, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing a copy thereof to be placed in the U.S. Mail, addressed to:

CHRISTOPHER WAYNE THOMPSON  
INMATE #114258  
ISCI  
PO BOX 14  
BOISE ID 83707

CYNTHIA K C MEYER  
DISTRICT COURT JUDGE  
E-MAILED BRIEF

JOHN M ADAMS  
KOOTENAI COUNTY PUBLIC DEFENDER  
E-MAILED BRIEF

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
E-MAILED BRIEF

\_\_\_\_\_/s/\_\_\_\_\_  
EVAN A. SMITH  
Administrative Assistant

BPM/eas